

TITLE 17 PUBLIC UTILITIES AND UTILITY SERVICES
CHAPTER 8 RENEWABLE ENERGY
PART 2 SELECTION OF AND PARTICIPATION IN PROJECTS

17.8.2.1 ISSUING AGENCY: New Mexico Renewable Energy Transmission Authority (“RETA” or the “Authority”).
[17.8.2.1 NMAC - N, 12/15/2011]

17.8.2.2 SCOPE: This rule applies to all renewable energy transmission-related projects submitted to the New Mexico renewable energy transmission authority (“authority”) seeking the authority’s participation in the project.
[17.8.2.2 NMAC - N, 12/15/2011]

17.8.2.3 STATUTORY AUTHORITY: NMSA 1978, Section 62-16A-1 *et seq.*, as amended.
[17.8.2.3 NMAC - N, 12/15/2011]

17.8.2.4 DURATION: Permanent.
[17.8.2.4 NMAC - N, 12/15/2011]

17.8.2.5 EFFECTIVE DATE: December 15, 2011, unless a later date is cited at the end of a section.
[17.8.2.5 NMAC - N, 12/15/2011]

17.8.2.6 OBJECTIVE: This rule sets forth the criteria by which the authority may consider undertaking a renewable energy related project as defined by NMSA 1978, Section 62-16A-2. The rule also articulates the authority’s participation in those projects.
[17.8.2.6 NMAC - N, 12/15/2011]

17.8.2.7 DEFINITIONS:

A. “Act” means the New Mexico Renewable Energy Transmission Authority Act, NMSA, 1978, Chapter 62, Article 16A, as amended.

B. “Acquire” or “acquisition” means to obtain eligible facilities by lease, construction, reconstruction or purchase, whether directly by the authority or by an entity in which the authority has a majority ownership interest. The authority may lease, construct, reconstruct or purchase eligible facilities through an agent when doing so is consistent with the act. If at any time after acquisition, the authority sells, leases or otherwise relinquishes its ownership interest in the eligible facilities, the authority will nevertheless be deemed to have acquired the eligible facilities.

C. “Authority” means the New Mexico renewable energy transmission authority.

D. “Board” means the appointed members of the authority.

E. “Electric service reliability” means the continuity of electric service experienced by retail customers. A project or facility will not be considered to affect electric service reliability if it does not materially diminishes electric service reliability of the transmission system in New Mexico.

F. “Letter of support” means a letter issued by the authority in order to assist the developer in attracting financial or other support for the project.

G. “Memorandum of understanding” or “MOU” means a written agreement entered into between the authority and an applicant for the purpose of informing the public of RETA’s involvement in a project; allowing a greater exchange of information; implying a financial or project development commitment between the two; or for any other reason the board deems appropriate.

H. “Participation” means involvement of any kind by the authority in a project, including, but not limited to, planning, acquiring, financing, developing, managing, operating, consulting, cooperating or otherwise taking part in a project, which has been approved by the authority.

I. “Partnership” means the authority’s affiliation with a person for the purpose of RETA participation in a project.

J. “Person” means a federal, state or local public entity, a public utility, or a private entity or individual.

K. “Project committee” means the subcommittee of the board established to review projects.
[17.8.2.7 NMAC - N, 12/15/2011]

17.8.2.8 RETA PARTICIPATION IN PROJECTS:

A. General:

(1) The board may, in its sole discretion, choose to provide support for a project based on evaluation criteria set forth in this rule, as further described in policies adopted by the board. The type and amount or degree of support provided by the authority will generally depend on the request of an applicant, the evaluation of the project based on the criteria, and RETA's resource capacity to support the project.

(2) The authority may decline to participate in any project, or may participate in any project through a letter of support; an MOU; a joint development agreement; financing of a project in whole or in part; entering into a partnership or limited liability company agreement with a person; or acquisition of a project.

B. Evaluation criteria:

(1) The evaluation of a project will be consistent with the type of request being made and may include, to the extent applicable, an evaluation of project feasibility, administrative capacity, financial position, benefit to the state of New Mexico, and economic and demographic factors. The authority may use one or more of these criteria during the evaluation process; depending on the type of request being considered. Further detail regarding the basis for RETA's evaluation of a project may be issued by the board in a policy.

(2) In accordance with NMSA 1978, Section 62-16A-4(F), the authority shall not own or control facilities unless:

(a) the facilities are leased to or help for lease or sale to a public utility or such other person approved by the public regulation commission;

(b) the operation, maintenance and use of the facilities are vested by lease or other contract in a public utility or such other person approved by the public regulation commission;

(c) the facilities are owned or controlled for a period of not more than 180 days after termination of a lease or contract described in Paragraph (1) or (2) of this subsection or after the authority gains possession of the facilities following a breach of such lease or contract or as a result of bankruptcy proceedings; or

(d) the facilities do not affect in-state retail rates or electric service reliability.

C. Evaluation by RETA projects committee: Employees of the authority will make a best effort to evaluate applications and compile a recommendation for the projects committee within 60 days of a request made pursuant to this rule. A project shall not proceed to the board for consideration unless the committee has evaluated it and recommended consideration by the full board. The committee may, in its sole discretion, request additional information from an applicant prior to making a recommendation to the full board. A project shall not be presented to the full board if the committee has denied the request or has not yet completed a full review.

[17.8.2.8 NMAC - N, 12/15/2011]

17.8.2.9 CONFIDENTIALITY:

A. All information obtained by the authority that is proprietary technical or business information shall be confidential and not subject to inspection pursuant to the Inspection of Public Records Act (NMSA 1978, Section 14-2-4). Proprietary confidential information includes, but is not limited to, power purchase agreements, interconnection agreements, construction contracts, equipment supply or procurement agreements, operation and maintenance agreements, real property related agreements, financing agreements (including security, pledge and mortgage agreements), costs of production, costs of transmission, transmission service agreements, credit reviews, detailed power models and financing statements.

B. The authority may enter into confidentiality agreements as necessary consistent with the Inspection of Public Records Act and the act.

[17.8.2.9 NMAC - N, 12/15/2011]

17.8.2.10 FILING RULES: Each rule, amendment, or repeal thereof adopted by the authority shall be filed with the state records center in accordance with NMSA 1978, Section 14-4-3 and published in the New Mexico register in accordance with NMSA 1978, Section 14-4-7.1.

[17.8.2.10 NMAC - N, 12/15/2011]

HISTORY OF 17.8.2 NMAC: [RESERVED]